



U.S. Department of Justice

United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

April 9, 2024

VIA ECF

Honorable Valerie E. Caproni
United States District Judge
Thurgood Marshall United States Courthouse
40 Foley Square
New York, NY 10007

Re: *National Organization for Women-New York City v.*
U.S. Department of Defense, et al., 23 Civ. 6750 (VEC)

Dear Judge Caproni:

This Office and the Department of Justice's Civil Division represent defendants U.S. Department of Defense ("DoD") and U.S. Department of Veterans Affairs ("VA") (together, "Defendants") in the above-referenced action commenced by plaintiff National Organization for Women-New York City ("Plaintiff"), which challenges certain DoD and VA policies relating to the provision of in vitro fertilization ("IVF") services to qualifying active-duty service members and veterans, respectively. We write respectfully to request that Defendants' current April 15, 2024 deadline for responding to Plaintiff's claims related to Defendants' Marriage Requirement, Member Gamete Requirement, and Coital Requirement (collectively, the "Stayed Claims"), as set forth in the Court's January 2, and March 13, 2024 Orders (ECF Nos. 31, 50), be extended to a date that is 14 days after the Court has adjudicated Defendants' motion to dismiss the Amended Complaint. This is Defendants' first request for an extension of time to respond to the Stayed Claims. Plaintiff consents to this request.

As Defendants reported to the Court last month, on March 8, 2024, DoD issued an amended policy governing its IVF benefits. (ECF Nos. 49, 49-1). On April 4, 2024, VA published in the *Federal Register* a policy statement detailing new changes to its IVF benefits policy. 89 Fed. Reg. 23518 (April 4, 2024). The extension is therefore requested to allow Plaintiff additional time to determine whether it will voluntarily dismiss the Stayed Claims and, if not, for the parties to determine how they can most efficiently litigate them.

We thank the Court for its consideration of this letter.

Respectfully submitted,

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General

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cc: All Counsel of Record (via ECF)